

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

GIBSON BRANDS, INC., a Delaware)
corporation,)
Plaintiff/Counterclaim-Defendant,) Case No. 19-cv-00358-ALM
vs.)
ARMADILLO DISTRIBUTION)
ENTERPRISES, INC.; CONCORDIA)
INVESTMENT PARTNERS, LLC,)
Defendant/Counterclaim-Plaintiff)
DOES 1 through 10,)
Defendants.)

GIBSON BRANDS INC.'S CONDITIONAL NOTICE OF CROSS APPEAL

On August 26, 2022, Defendants/Counterclaim-Plaintiffs Armadillo Distribution Enterprises, Inc. and Concordia Investment Partners, LLC ("Defendants") filed its Notice of Appeal from (i) Final Judgment (Dkt. No. 547) entered on July 28, 2022, (ii) the Memorandum Opinion and Order (Dkt. No. 546) entered on July 28, 2022, and (iii) each and every prior order of the district court herein, including, but not limited to, Dkt. Nos. 132, 134, 135, 139, 302, 303, 332, 333, 384, 385, 470, 471, 473, 474, 475, 476, 546, and 547

In the event that Defendants prevail, in whole or in part, on the appeal(s) brought by Armadillo Distribution Enterprises, Inc. and Concordia Investment Partners, LLC, Plaintiff/Counterclaim Defendant Gibson Brands, Inc., ("Plaintiff") intends to cross appeal to the Court of Appeals and/or the Supreme Court from those portions of the Final Judgment (Dkt. No. 547) finding that: (1) Defendants did not infringe or manufacture, sell or advertise counterfeits using the FLYING V® word mark; (2) Defendants did not manufacture, sell or

advertise counterfeits using the Dove Wing Headstock®; (3) Plaintiff delayed in bringing its claims, Defendants suffered undue prejudice from any such delay and Defendants did not have unclean hands; (4) the Damages awarded and the absence of disgorgement of profits; and (5) Injunctive relief as it relates to Defendants use of the Dove Wing Headstock® and FLYING V® word mark.

Plaintiff, out of an abundance of caution, hereby gives notice of Plaintiff's intention to a conditional cross-appeal of the Final Judgment (Dkt. No. 547) as stated above, so as to preserve and avoid any possible waiver of Plaintiff's ability to request such relief from the Court of Appeals and/or the Supreme Court. The Court of Appeals and/or the Supreme Court need not address the cross-appeal if it affirms all of the Final Judgment (Dkt. No. 547).

Plaintiff hereby also gives further notice that it reserves the right to timely amend this notice pursuant to Fed. R. App. P. 4(a)(4)(B)(ii) upon entry of the last order disposing of the motions identified in Fed. R. App. P. 4(a)(4)(A).

Respectfully submitted this 9th day of September 2022.

/s/ Andrea E. Bates
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Attorneys for Plaintiff
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served on all counsel of record via this Court's CM/ECF electronica filing system on September 9, 2022.

/s/ *Andrea E. Bates*
Andrea E. Bates